

From: Waye, Don
To: Hall, Lynda
Sent: 2/23/2015 3:30:17 PM
Subject: Attn Lynda - [FW: Oregon Ag workgroup ideas]

Ex. 5 - Deliberative

From: Waye, Don
Sent: Friday, February 20, 2015 1:06 PM
To: Flahive, Katie
Subject: FW: Oregon Ag workgroup ideas

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From: Waye, Don
Sent: Friday, February 20, 2015 12:53 PM
To: 'Allison Castellan - NOAA Federal'; Wu, Jennifer
Cc: Carlin, Jayne; Jacobson, Martin; Henning, Alan
Subject: RE: Ag workgroup ideas

Great caveat, Allison. Thanks!

Ex. 5 - Deliberative

Don

II. AGRICULTURE

A. CONFINED ANIMAL FACILITIES (Large and Small Units)

FINDING: Oregon's program for confined animal facilities includes management measures in conformity with the 6217(g) guidance and enforceable policies and mechanisms to ensure implementation throughout the 6217 management area for confined animal facilities where animals are confined for four months or more and where waste water control facilities are present. The State does not have management measures for facilities where animals are confined for less than four months and that do not have prepared surfaces or waste water control facilities. For these latter facilities, the State has identified a backup enforceable authority, but has not demonstrated the ability of the authority to ensure implementation throughout the 6217 management area.

CONDITION: Within two years, Oregon will include in its program management measures in conformity with the 6217 (g) guidance for facilities where animals are confined for less than four months and that do not have prepared surfaces or waste water control facilities. Also within two years, Oregon will provide a strategy (in accordance with section XII, pages 19-20) for use of the State's water quality law (ORS 468B) as a back-up enforceable mechanism to ensure implementation of the management measures

for confined animal facilities as proposed on pages 48-50 of the State's program submittal.

RATIONALE: Existing State authorities to regulate confined animal facilities provide for practices that implement the management measures for most facilities. The existing program is enforceable through permits and other procedures, including civil penalties for violations.

The existing permit process, however, excludes facilities of four months or less duration and facilities without a prepared surface and without waste water treatment works. The State has proposed that its general water quality law (ORS 468B) could be used to address these exempted facilities (ORS 468B.050(1)(a) prohibits discharge of waste into state waters from any industrial or commercial establishment or activity without a permit); however, the State has not explained how it will use this general authority to ensure implementation of the management measure for such facilities. In discussions with NOAA and EPA, the State has also proposed addressing such facilities in AWQMAPs developed under SB1010. NOAA and EPA encourage the State to pursue this effort.

**B. EROSION and SEDIMENT CONTROL, NUTRIENT,
PESTICIDE, GRAZING, and IRRIGATION WATER
MANAGEMENT**

FINDING: The State's program for these agricultural subcategories does not include management measures in conformity with the 6217(g) guidance. Oregon has identified an enforceable authority for these management measures, but has not demonstrated the ability of the authority to ensure implementation throughout the 6217 management area.

CONDITIONS: Within one year, Oregon will (1) designate agricultural water quality management areas (AWQMAPs) that encompass agricultural lands within the 6217 management area, and (2) complete the wording of the alternative management measure for grazing, consistent with the 6217(g) guidance. Agricultural water quality management area plans (AWQMAPs) will include management measures in conformity with the 6217(g) guidance, including written plans and equipment calibration as required practices for the nutrient management measure, and a process for identifying practices that will be used to achieve the pesticide management measure. The State will develop a process to incorporate the irrigation water management measure into the overall AWQMAPs. Within five years, AWQMAPs will be in place.

RATIONALE: The Oregon Department of Agriculture (ODA) has the authority, under SB 1010, enacted in 1993, to establish boundaries of AWQMAPs and develop AWQMAPs when such plans are required by a provision of State or federal law. Individual landowners are required to comply with the provisions of the AWQMAPs. This program appears promising, and implementation of AWQMAPs has the potential to ensure implementation of the management measures. The content of the AWQMAPs, their linkage to the 6217 management measures, and their effectiveness, are not yet known. AWQMAPs need to be in place by the year 2001, when the time period for conditional approval ends, and should be fully implemented by 2004, in accordance with the timeframe for implementation described in Flexibility for State Coastal Nonpoint Programs (NOAA and EPA, March 1995).

To achieve the goals of the nutrient management and pesticide management measures, AWQMAP elements related to nutrient management and pesticides must contain the components

specified in the above condition. For the irrigation water management measure, NOAA and EPA encourage the ODA to pursue its plan to coordinate with the Oregon Water Resources Department to facilitate the development of subbasin water conservation plans, including measurements of water needed and applied, and to incorporate the conservation plans into the overall AWQMAP to achieve the irrigation management measure. Conservation planning will result in important water quality responses that should be addressed to the extent practicable through the AWQMAPS. Finally, the State proposed an alternative management measure for grazing that is as effective as the 6217(g) guidance measure, but the State has not completed the wording of the component of this measure for upland erosion on privately owned lands.

From: Allison Castellan - NOAA Federal [<mailto:allison.castellan@noaa.gov>]

Sent: Friday, February 20, 2015 9:11 AM

To: Wu, Jennifer

Cc: Carlin, Jayne; Jacobson, Martin; Waye, Don; Henning, Alan

Subject: Re: Ag workgroup ideas

That sounds like a very good approach and along the lines of what I was thinking as well. In addition to looking at the original 6 MMs, I also think we should look at the 1998 conditional approval findings/condition/rationale for the ag MMs so the group has a good understanding of the basis for our decision back then &

Ex. 5 - Deliberative

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On Fri, Feb 20, 2015 at 1:21 AM, Wu, Jennifer <Wu.Jennifer@epa.gov> wrote:

Hi Everyone, I had a very helpful talk with Don who suggested a way we might approach the ag tech team to dos and ran the approach by Alan. So I wanted to get this down while it was fresh.

Ex. 5 - Deliberative

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